UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

LONNY ROARK, et al.,)	
)	
Plaintiffs,)	
)	
VS.)	Case No. 4:06CV392 CDP
)	
SOUTH IRON R-1 SCHOOL)	
DISTRICT, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

I previously entered a permanent injunction and declaratory judgment in favor of plaintiffs, and thereafter entered an order awarding plaintiffs attorneys' fees and costs as the prevailing parties. I stayed the execution of that fee award, however, while defendants pursued an appeal from the final judgment.

Defendants acknowledged at that time that interest on the award of attorney's fees and costs would accrue during the stay. Now that the appeal has been completed, plaintiffs have asked me to lift the stay of execution on the attorneys' fee award.

Defendants responded with a motion to alter or amend under Fed. R. Civ. P. 60(a) & (b), arguing that the plaintiffs are no longer the prevailing parties because the Court of Appeals reversed the declaratory judgment portion of my decision.

On appeal, the Eighth Circuit affirmed the grant of summary judgment and entry of a permanent injunction, but it reversed the declaratory judgment that I had

entered in plaintiffs' favor. Even though the plaintiffs' did not prevail on the request for declaratory judgment, they still obtained the result they were seeking – defendants are permanently enjoined from distributing Bibles to elementary school children on school property – and plaintiffs remain the prevailing parties. *See* Civil Rights Attorney's Fees Act of 1975, 42 U.S.C. § 1988(b); *Hanrahan v. Hampton*, 446 U.S. 754, 758 (1980). I will therefore grant plaintiffs' motion to lift the stay of execution of attorney's fees, and I will deny defendants' motion to alter or amend the order granting attorney's fees.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs' motion to lift the stay of execution of attorney's fees [#121] is granted, and defendants' motion to alter or amend the order granting attorney's fees [#122] is denied.

CATHERINE D. PERRY

Catherine D Rem

UNITED STATES DISTRICT JUDGE

Dated this 23rd day of October, 2009.